

**Executive Summary – Enforcement Matter – Case No. 51273**

**CIRCLE K STORES INC.**

**RN102250271**

**Docket No. 2015-1407-PST-E**

**Order Type:**

1660 Agreed Order

**Findings Order Justification:**

N/A

**Media:**

PST

**Small Business:**

No

**Location(s) Where Violation(s) Occurred:**

Circle K 2706338, 600 North Stemmons Freeway, Lake Dallas, Denton County

**Type of Operation:**

Convenience store with retail sales of gasoline

**Other Significant Matters:**

Additional Pending Enforcement Actions: No

Past-Due Penalties: No

Other: N/A

Interested Third-Parties: The complainant has expressed an interest in this matter but does not wish to speak at Agenda.

**Texas Register Publication Date:** February 5, 2016

**Comments Received:** No

***Penalty Information***

**Total Penalty Assessed:** \$17,587

**Amount Deferred for Expedited Settlement:** \$3,517

**Amount Deferred for Financial Inability to Pay:** \$0

**Total Paid to General Revenue:** \$14,070

**Total Due to General Revenue:** \$0

Payment Plan: N/A

**Supplemental Environmental Project ("SEP") Conditional Offset:** \$0

Name of SEP: N/A

**Compliance History Classifications:**

Person/CN - Satisfactory

Site/RN - Satisfactory

**Major Source:** Yes

**Statutory Limit Adjustment:** N/A

**Applicable Penalty Policy:** April 2014

**Executive Summary – Enforcement Matter – Case No. 51273**

**CIRCLE K STORES INC.**

**RN102250271**

**Docket No. 2015-1407-PST-E**

***Investigation Information***

**Complaint Date(s):** January 2, 2015

**Complaint Information:** Alleged the nozzle failed to automatically shut off and spilled five or more gallons of fuel from the nozzle on to the ground from pump 11. The nozzle over-pressurized the car gas tank and shot out the fill pipe spraying fuel in the air and drenching the vehicle and driver.

**Date(s) of Investigation:** January 30, 2015 and July 29, 2015

**Date(s) of NOE(s):** September 4, 2015

***Violation Information***

1. Failed to record inventory volume measurement for regulated substance inputs, withdrawals and the amount still remaining in the tank each operating day [30 TEX. ADMIN. CODE § 334.50(d)(1)(B)(iii)(I) and TEX. WATER CODE § 26.3475(c)(1)].
2. Failed to remove and properly dispose of liquid or debris in the underground storage tank ("UST") system's spill buckets and manways within 96 hours of discovery after an agency-authorized inspection. Specifically, on January 30, 2015, liquid observed by a TCEQ Investigator in the spill buckets and manways was not properly removed and disposed of within 96 hours of discovery [30 TEX. ADMIN. CODE § 334.42(i)].
3. Failed to ensure that a Class B operator trained and certified all Class C operators. Specifically, a certified Class C operator trained and certified six individuals for Class C operator certification [30 TEX. ADMIN. CODE § 334.603(a)(2)].
4. Failed to ensure that at least one station representative received training in the operation and maintenance of the Stage II vapor recovery system, and each current employee received in-house Stage II vapor recovery training regarding the purpose and correct operating procedure of the vapor recovery system [30 TEX. ADMIN. CODE § 115.248(1) and TEX. HEALTH & SAFETY CODE § 382.085(b)].

***Corrective Actions/Technical Requirements***

**Corrective Action(s) Completed:**

N/A

**Technical Requirements:**

The Order will require the Respondent to:

a. Within 30 days:

- i. Install and implement a release detection method for all USTs at the Station and begin conducting daily inventory volume measurements for the USTs;

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**CIRCLE K STORES INC.**

**RN102250271**

**Docket No. 2015-1407-PST-E**

- ii. Clean the spill buckets of liquid and debris and properly dispose of it at an authorized facility;
  - iii. Develop and implement procedures to ensure that all individuals successfully complete the proper training requirement for each class of operator; and
  - iv. Ensure that at least one Station representative receives training in the operation and maintenance of the Stage II vapor recovery system, and each current employee receives in-house Stage II vapor recovery training.
- b. In lieu of a.iv., decommission the Stage II vapor recovery system at the Station.
- c. Within 45 days, submit written certification to demonstrate compliance with a.i. through a.iii. and a.iv. or b.

***Litigation Information***

**Date Petition(s) Filed:** N/A

**Date Answer(s) Filed:** N/A

**SOAH Referral Date:** N/A

**Hearing Date(s):** N/A

**Settlement Date:** N/A

***Contact Information***

**TCEQ Attorney:** N/A

**TCEQ Enforcement Coordinator:** James Baldwin, Enforcement Division, Enforcement Team 7, MC 128, (512) 239-1337; Melissa Cordell, Enforcement Division, MC 219, (512) 239-2483

**TCEQ SEP Coordinator:** N/A

**Respondent:** Geoffrey Haxel, Senior Vice President of Operations, CIRCLE K STORES INC., 1130 West Warner Road, Building B, Tempe, Arizona 85284

**Respondent's Attorney:** N/A





Policy Revision 4 (April 2014)

## Penalty Calculation Worksheet (PCW)

PCW Revision March 26, 2014

<b>DATES</b>	<b>Assigned</b>	8-Sep-2015	<b>Screening</b>	15-Sep-2015	<b>EPA Due</b>	
	<b>PCW</b>	9-Oct-2015				

**RESPONDENT/FACILITY INFORMATION**

<b>Respondent</b>	CIRCLE K STORES INC.		
<b>Reg. Ent. Ref. No.</b>	RN102250271		
<b>Facility/Site Region</b>	4-Dallas/Fort Worth	<b>Major/Minor Source</b>	Major

**CASE INFORMATION**

<b>Enf./Case ID No.</b>	51273	<b>No. of Violations</b>	4
<b>Docket No.</b>	2015-1407-PST-E	<b>Order Type</b>	1660
<b>Media Program(s)</b>	Petroleum Storage Tank	<b>Government/Non-Profit</b>	No
<b>Multi-Media</b>		<b>Enf. Coordinator</b>	James Baldwin
		<b>EC's Team</b>	Enforcement Team 7
<b>Admin. Penalty \$ Limit Minimum</b>	\$0	<b>Maximum</b>	\$25,000

## Penalty Calculation Section

**TOTAL BASE PENALTY (Sum of violation base penalties)** **Subtotal 1** \$16,750
**ADJUSTMENTS (+/-) TO SUBTOTAL 1**

Subtotals 2-7 are obtained by multiplying the Total Base Penalty (Subtotal 1) by the indicated percentage.

**Compliance History** **5.0%** Adjustment **Subtotals 2, 3, & 7** \$837

**Notes** Enhancement for one NOV with same/similar violations.

**Culpability** **No** **0.0%** Enhancement **Subtotal 4** \$0

**Notes** The Respondent does not meet the culpability criteria.

**Good Faith Effort to Comply Total Adjustments** **Subtotal 5** \$0

**Economic Benefit** **0.0%** Enhancement\* **Subtotal 6** \$0

Total EB Amounts	\$171
Estimated Cost of Compliance	\$2,540

\*Capped at the Total EB \$ Amount

**SUM OF SUBTOTALS 1-7** **Final Subtotal** \$17,587

**OTHER FACTORS AS JUSTICE MAY REQUIRE** **0.0%** Adjustment \$0

Reduces or enhances the Final Subtotal by the indicated percentage.

**Notes****Final Penalty Amount** \$17,587
**STATUTORY LIMIT ADJUSTMENT** **Final Assessed Penalty** \$17,587

**DEFERRAL** **20.0%** Reduction **Adjustment** -\$3,517

Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)

**Notes**

Deferral offered for expedited settlement.

**PAYABLE PENALTY** \$14,070

Screening Date 15-Sep-2015

Docket No. 2015-1407-PST-E

PCW

Respondent CIRCLE K STORES INC.

Policy Revision 4 (April 2014)

Case ID No. 51273

PCW Revision March 26, 2014

Reg. Ent. Reference No. RN102250271

Media [Statute] Petroleum Storage Tank

Enf. Coordinator James Baldwin

## Compliance History Worksheet

## &gt;&gt; Compliance History Site Enhancement (Subtotal 2)

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written notices of violation ("NOVs") with same or similar violations as those in the current enforcement action ( <i>number of NOVs meeting criteria</i> )	1	5%
	Other written NOVs	0	0%
Orders	Any agreed final enforcement orders containing a denial of liability ( <i>number of orders meeting criteria</i> )	0	0%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government ( <i>number of judgments or consent decrees meeting criteria</i> )	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government ( <i>number of counts</i> )	0	0%
Emissions	Chronic excessive emissions events ( <i>number of events</i> )	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 ( <i>number of audits for which notices were submitted</i> )	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 ( <i>number of audits for which violations were disclosed</i> )	0	0%
Please Enter Yes or No			
Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

Adjustment Percentage (Subtotal 2) 5%

## &gt;&gt; Repeat Violator (Subtotal 3)

No

Adjustment Percentage (Subtotal 3) 0%

## &gt;&gt; Compliance History Person Classification (Subtotal 7)

Satisfactory Performer

Adjustment Percentage (Subtotal 7) 0%

## &gt;&gt; Compliance History Summary

Compliance  
History  
Notes

Enhancement for one NOV with same/similar violations.

Total Compliance History Adjustment Percentage (Subtotals 2, 3, &amp; 7) 5%

## &gt;&gt; Final Compliance History Adjustment

Final Adjustment Percentage \*capped at 100% 5%

Screening Date 15-Sep-2015

Docket No. 2015-1407-PST-E

PCW

Respondent CIRCLE K STORES INC.

Policy Revision 4 (April 2014)

Case ID No. 51273

PCW Revision March 26, 2014

Reg. Ent. Reference No. RN102250271

Media [Statute] Petroleum Storage Tank

Enf. Coordinator James Baldwin

Violation Number 1

Rule Cite(s)

30 Tex. Admin. Code § 334.50(d)(1)(B)(iii)(I) and Tex. Water  
Code § 26.3475(c)(1)

Violation Description

Failed to record inventory volume measurement for regulated substance inputs,  
withdrawals and the amount still remaining in the tank each operating day.

Base Penalty \$25,000

## &gt;&gt; Environmental, Property and Human Health Matrix

OR

Release	Major	Moderate	Minor
Actual			
Potential	x		

Percent 30.0%

## &gt;&gt; Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0.0%

Matrix  
NotesHuman health or the environment will or could be exposed to pollutants that would exceed levels  
that are protective of human health or environmental receptors as a result of the violation.

Adjustment \$17,500

\$7,500

## Violation Events

Number of Violation Events 1

48 Number of violation days

mark only one  
with an x

daily	
weekly	
monthly	
quarterly	x
semiannual	
annual	
single event	

Violation Base Penalty \$7,500

One quarterly event is recommended based on documentation of the violation during the July 29,  
2015 record review to the September 15, 2015 screening date.

## Good Faith Efforts to Comply

0.0%

Reduction \$0

Before NOE/NOV NOE/NOV to EDPRP/Settlement Offer

Extraordinary		
Ordinary		
N/A	x	(mark with x)

Notes

The Respondent does not meet the good faith criteria for  
this violation.

Violation Subtotal \$7,500

## Economic Benefit (EB) for this violation

## Statutory Limit Test

Estimated EB Amount \$101

Violation Final Penalty Total \$7,875

This violation Final Assessed Penalty (adjusted for limits) \$7,875

# Economic Benefit Worksheet

**Respondent** CIRCLE K STORES INC.

**Case ID No.** 51273

**Reg. Ent. Reference No.** RN102250271

**Media** Petroleum Storage Tank

**Violation No.** 1

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
No commas or \$							

## Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/Construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)	\$1,500	30-Jan-2015	4-Jun-2016	1.35	\$101	n/a	\$101

**Notes for DELAYED costs**

Estimated cost to monitor the underground storage tanks ("USTs") for releases and conduct daily inventory volume measurements. The date required is the initial investigation date and the final date is the estimated date of compliance.

## Avoided Costs

**ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)**

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/Equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

**Notes for AVOIDED costs**

**Approx. Cost of Compliance**

\$1,500

**TOTAL**

\$101



Screening Date 15-Sep-2015

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PCW

Respondent CIRCLE K STORES INC.

Policy Revision 4 (April 2014)

Case ID No. 51273

PCW Revision March 26, 2014

Reg. Ent. Reference No. RN102250271

Media [Statute] Petroleum Storage Tank

Enf. Coordinator James Baldwin

Violation Number 2

Rule Cite(s) 30 Tex. Admin. Code § 334.42(i)

## Violation Description

Failed to remove and properly dispose of liquid or debris in the UST system's spill buckets and manways within 96 hours of discovery after an agency-authorized inspection. Specifically, on January 30, 2015, liquid observed by a TCEQ Investigator in the spill buckets and manways was not properly removed and disposed of within 96 hours of discovery.

Base Penalty \$25,000

## &gt;&gt; Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential		x	

Percent 15.0%

## &gt;&gt; Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0.0%

Matrix Notes

Human health or the environment will or could be exposed to significant amounts of pollutants that would not exceed levels that are protective of human health or environmental receptors as a result of the violation.

Adjustment \$21,250

\$3,750

## Violation Events

Number of Violation Events 1

48 Number of violation days

mark only one  
with an x

daily	
weekly	
monthly	
quarterly	x
semiannual	
annual	
single event	

Violation Base Penalty \$3,750

One quarterly event is recommended based on the July 29, 2015 record review to the September 15, 2015 screening date.

## Good Faith Efforts to Comply

0.0%

Reduction \$0

Before NOE/NOV NOE/NOV to EDPRP/Settlement Offer

Extraordinary	
Ordinary	
N/A	x (mark with x)

Notes

The Respondent does not meet the good faith criteria for this violation.

Violation Subtotal \$3,750

## Economic Benefit (EB) for this violation

## Statutory Limit Test

Estimated EB Amount \$30

Violation Final Penalty Total \$3,938

This violation Final Assessed Penalty (adjusted for limits) \$3,938

# Economic Benefit Worksheet

**Respondent** CIRCLE K STORES INC.

**Case ID No.** 51273

**Reg. Ent. Reference No.** RN102250271

**Media** Petroleum Storage Tank

**Violation No.** 2

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
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No commas or \$

## Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/Construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal	\$450	30-Jan-2015	4-Jun-2016	1.35	\$30	n/a	\$30
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

**Notes for DELAYED costs**

Estimated cost to remove and properly dispose of liquid and debris from the three containment sumps of the UST system (\$150 per sump). The date required is the initial investigation date and the final date is the estimated date of compliance.

## Avoided Costs

**ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)**

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/Equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

**Notes for AVOIDED costs**

**Approx. Cost of Compliance**

\$450

**TOTAL**

\$30

Screening Date 15-Sep-2015

Docket No. 2015-1407-PST-E

PCW

Respondent CIRCLE K STORES INC.

Policy Revision 4 (April 2014)

Case ID No. 51273

PCW Revision March 26, 2014

Reg. Ent. Reference No. RN102250271

Media [Statute] Petroleum Storage Tank

Enf. Coordinator James Baldwin

Violation Number 3

Rule Cite(s) 30 Tex. Admin. Code § 334.603(a)(2)

## Violation Description

Failed to ensure that a Class B operator trained and certified all Class C operators. Specifically, a certified Class C trained operator trained and certified six individuals for Class C operator certification.

Base Penalty \$25,000

## &gt;&gt; Environmental, Property and Human Health Matrix

OR

	Harm		
Release	Major	Moderate	Minor
Actual			
Potential		x	

Percent 15.0%

## &gt;&gt; Programmatic Matrix

	Falsification	Major	Moderate	Minor

Percent 0.0%

Matrix Notes

Human health or the environment will or could be exposed to significant amounts of pollutants that would exceed levels that are protective of human health or environmental receptors as a result of the violation.

Adjustment \$21,250

\$3,750

## Violation Events

Number of Violation Events 1

48 Number of violation days

mark only one  
with an x

daily	
weekly	
monthly	
quarterly	x
semiannual	
annual	
single event	

Violation Base Penalty \$3,750

One quarterly event is recommended from the July 29, 2015 investigation date to the September 15, 2015 screening date.

## Good Faith Efforts to Comply

0.0%

Reduction \$0

Before NOE/NOV NOE/NOV to EDPRP/Settlement Offer

Extraordinary		
Ordinary		
N/A	x	(mark with x)

Notes

The Respondent does not meet the good faith criteria for this violation.

Violation Subtotal \$3,750

## Economic Benefit (EB) for this violation

## Statutory Limit Test

Estimated EB Amount \$6

Violation Final Penalty Total \$3,938

This violation Final Assessed Penalty (adjusted for limits) \$3,938

# Economic Benefit Worksheet

**Respondent** CIRCLE K STORES INC.

**Case ID No.** 51273

**Reg. Ent. Reference No.** RN102250271

**Media** Petroleum Storage Tank

**Violation No.** 3

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Overtime Costs	EB Amount
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No commas or \$

## Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/Construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System	\$90	30-Jan-2015	4-Jun-2016	1.35	\$6	n/a	\$6
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

### Notes for DELAYED costs

Estimated cost to provide UST Class C operator certification training for six individuals (\$15 per individual).  
The date required is the investigation date and the final date is the estimated date of compliance.

## Avoided Costs

### ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/Equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

### Notes for AVOIDED costs

Approx. Cost of Compliance

\$90

TOTAL

\$6

Screening Date 15-Sep-2015

Docket No. 2015-1407-PST-E

PCW

Respondent CIRCLE K STORES INC.

Policy Revision 4 (April 2014)

Case ID No. 51273

PCW Revision March 26, 2014

Reg. Ent. Reference No. RN102250271

Media [Statute] Petroleum Storage Tank

Enf. Coordinator James Baldwin

Violation Number 4

Rule Cite(s) 30 Tex. Admin. Code § 115.248(1) and Tex. Health &amp; Safety Code § 382.085(b)

## Violation Description

Failed to ensure that at least one Station representative received training in the operation and maintenance of the Stage II vapor recovery system, and each current employee received in-house Stage II vapor recovery training regarding the purpose and correct operating procedure of the vapor recovery system.

Base Penalty \$25,000

## &gt;&gt; Environmental, Property and Human Health Matrix

OR

Release	Major	Harm	Moderate	Minor
Actual				
Potential				x

Percent 7.0%

## &gt;&gt; Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0.0%

Matrix Notes

Human health or the environment will or could be exposed to insignificant amounts of pollutants that would not exceed levels that are protective of human health or environmental receptors as a result of the violation.

Adjustment \$23,250

\$1,750

## Violation Events

Number of Violation Events 1

48 Number of violation days

mark only one  
with an x

daily	
weekly	
monthly	
quarterly	
semiannual	
annual	
single event	x

Violation Base Penalty \$1,750

One single event is recommended.

## Good Faith Efforts to Comply

0.0%

Reduction \$0

Before NOE/NOV NOE/NOV to EDPRP/Settlement Offer

Extraordinary		
Ordinary		
N/A	x	(mark with x)

Notes

The Respondent does not meet the good faith criteria for this violation.

Violation Subtotal \$1,750

## Economic Benefit (EB) for this violation

## Statutory Limit Test

Estimated EB Amount \$34

Violation Final Penalty Total \$1,838

This violation Final Assessed Penalty (adjusted for limits) \$1,838

# Economic Benefit Worksheet

Respondent CIRCLE K STORES INC.  
Case ID No. 51273  
Reg. Ent. Reference No. RN102250271  
Media Petroleum Storage Tank  
Violation No. 4

Percent Interest 5.0  
Years of Depreciation 15

Item Cost Date Required Final Date Yrs Interest Saved Onetime Costs EB Amount  
Item Description No commas or \$

## Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/Construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling	\$500	30-Jan-2015	4-Jun-2016	1.35	\$34	n/a	\$34
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

### Notes for DELAYED costs

Estimated cost of training a Stage II representative and to provide the Stage II training to all current employees. The date required is the initial investigation date and the final date is the estimated date of compliance.

## Avoided Costs

### ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/Equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

### Notes for AVOIDED costs

Approx. Cost of Compliance

\$500

TOTAL

\$34



## TCEQ Compliance History Report

**PENDING** Compliance History Report for CN600134456, RN102250271, Rating Year 2015 which includes Compliance History (CH) components from September 1, 2010, through August 31, 2015.

**Customer, Respondent, or Owner/Operator:** CN600134456, CIRCLE K STORES INC.

**Classification:** SATISFACTORY

**Rating:** 0.20

**Regulated Entity:** RN102250271, Circle K 2706338

**Classification:** SATISFACTORY

**Rating:** 2.00

**Complexity Points:** 3

**Repeat Violator:** NO

**CH Group:** 14 - Other

**Location:** 600 North Stemmons Freeway, Lake Dallas, Denton County, Texas

**TCEQ Region:** REGION 04 - DFW METROPLEX

**ID Number(s):**

**PETROLEUM STORAGE TANK REGISTRATION**  
REGISTRATION 68216

**Compliance History Period:** September 01, 2010 to August 31, 2015

**Rating Year:** 2015

**Rating Date:** 09/01/2015

**Date Compliance History Report Prepared:** September 15, 2015

**Agency Decision Requiring Compliance History:** Enforcement

**Component Period Selected:** September 15, 2010 to September 15, 2015

**TCEQ Staff Member to Contact for Additional Information Regarding This Compliance History.**

**Name:** James Baldwin

**Phone:** (512) 239-1337

### Site and Owner/Operator History:

- 1) Has the site been in existence and/or operation for the full five year compliance period? YES
- 2) Has there been a (known) change in ownership/operator of the site during the compliance period? NO
- 3) If **YES** for #2, who is the current owner/operator? N/A
- 4) If **YES** for #2, who was/were the prior owner(s)/operator(s)? N/A
- 5) If **YES**, when did the change(s) in owner or operator occur? N/A

### Components (Multimedia) for the Site Are Listed in Sections A - J

#### **A. Final Orders, court judgments, and consent decrees:**

N/A

#### **B. Criminal convictions:**

N/A

#### **C. Chronic excessive emissions events:**

N/A

#### **D. The approval dates of investigations (CCEDS Inv. Track. No.):**

Item 1      November 27, 2012      (1041813)

#### **E. Written notices of violations (NOV) (CCEDS Inv. Track. No.):**

A notice of violation represents a written allegation of a violation of a specific regulatory requirement from the commission to a regulated entity. A notice of violation is not a final enforcement action, nor proof that a violation has actually occurred.

1      Date:      03/26/2015      (1223117)      CN600134456

Self Report?	NO	Classification:	Minor
Citation:	30 TAC Chapter 334, SubChapter C 334.50(d)(1)(B)(iii)(I)		
Description:	Failure to record measurements every operating day during the month of January 2015, causing a leak check exceedance for all three tanks.		
Self Report?	NO	Classification:	Minor
Citation:	30 TAC Chapter 334, SubChapter C 334.42(i)		
Description:	Failure to remove and dispose liquid in spill buckets and sumps within 96 hours of discovery.		
Self Report?	NO	Classification:	Moderate
Citation:	30 TAC Chapter 334, SubChapter N 334.603(b)(2)		
Description:	Failure to maintain a current and correct list of trained UST Class C operators at the facility.		
Self Report?	NO	Classification:	Minor
Citation:	30 TAC Chapter 115, SubChapter C 115.246(7)(A)		
Description:	Failure to maintain Stage II records on-site and immediately available for review, a violation of 30 TAC 115.246(b)(2). Because the TCEQ's Consolidated Compliance and Enforcement Data System (CCEDS) had not been updated with the current version of the rule (effective October 31, 2013), an outdated citation (30 TAC 115.246(7)(A)) was used.		
Self Report?	NO	Classification:	Minor
Citation:	30 TAC Chapter 115, SubChapter C 115.246(4) 30 TAC Chapter 115, SubChapter C 115.248(1)		
Description:	Failure to maintain documentation of Facility Representative and employee training for the Stage II system for all current employees.		

**F. Environmental audits:**

N/A

**G. Type of environmental management systems (EMSs):**

N/A

**H. Voluntary on-site compliance assessment dates:**

N/A

**I. Participation in a voluntary pollution reduction program:**

N/A

**J. Early compliance:**

N/A

**Sites Outside of Texas:**

N/A



# TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



IN THE MATTER OF AN  
ENFORCEMENT ACTION  
CONCERNING  
CIRCLE K STORES INC.  
RN102250271

§ BEFORE THE  
§  
§ TEXAS COMMISSION ON  
§  
§ ENVIRONMENTAL QUALITY

## AGREED ORDER DOCKET NO. 2015-1407-PST-E

### I. JURISDICTION AND STIPULATIONS

On \_\_\_\_\_, the Texas Commission on Environmental Quality ("the Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding CIRCLE K STORES INC. ("Respondent") under the authority of TEX. HEALTH & SAFETY CODE ch. 382 and TEX. WATER CODE chs. 7 and 26. The Executive Director of the TCEQ, through the Enforcement Division, and the Respondent together stipulate that:

1. The Respondent owns and operates a convenience store with retail sales of fuel at 600 North Stemmons Freeway in Lake Dallas, Denton County, Texas (the "Station").
2. The Respondent's two underground storage tanks ("USTs") are not exempt or excluded from regulation under the Texas Water Code or the rules of the Commission. The Station consists of one or more sources as defined in TEX. HEALTH & SAFETY CODE § 382.003(12).
3. The Executive Director and the Respondent agree that the Commission has jurisdiction to enter this Agreed Order, and that the Respondent is subject to the Commission's jurisdiction.
4. The Respondent received notice of the violations alleged in Section II ("Allegations") on or about September 9, 2015.
5. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by the Respondent of any violation alleged in Section II ("Allegations"), nor of any statute or rule.

6. An administrative penalty in the amount of Seventeen Thousand Five Hundred Eighty-Seven Dollars (\$17,587) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The Respondent has paid Fourteen Thousand Seventy Dollars (\$14,070) of the administrative penalty and Three Thousand Five Hundred Seventeen Dollars (\$3,517) is deferred contingent upon the Respondent's timely and satisfactory compliance with all the terms of this Agreed Order. The deferred amount will be waived upon full compliance with the terms of this Agreed Order. If the Respondent fails to timely and satisfactorily comply with all requirements of this Agreed Order, the Executive Director may require the Respondent to pay all or part of the deferred penalty.
7. Any notice and procedures, which might otherwise be authorized or required in this action, are waived in the interest of a more timely resolution of the matter.
8. The Executive Director and the Respondent agree on a settlement of the matters alleged in this enforcement action, subject to final approval in accordance with 30 TEX. ADMIN. CODE § 70.10(a).
9. The Executive Director may, without further notice or hearing, refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings if the Executive Director determines that the Respondent has not complied with one or more of the terms or conditions in this Agreed Order.
10. This Agreed Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Agreed Order, whichever is later.
11. The provisions of this Agreed Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Agreed Order unenforceable, the remaining provisions shall be valid and enforceable.

## II. ALLEGATIONS

As owner and operator of the Station, the Respondent is alleged to have:

1. Failed to record inventory volume measurement for regulated substance inputs, withdrawals and the amount still remaining in the tank each operating day, in violation of 30 TEX. ADMIN. CODE § 334.50(d)(1)(B)(iii)(I) and TEX. WATER CODE § 26.3475(c)(1), as documented during an investigation conducted on January 30, 2015 and a record review conducted on July 29, 2015.
2. Failed to remove and properly dispose of liquid or debris in the UST system's spill buckets and manways within 96 hours of discovery after an agency-authorized inspection, in violation of 30 TEX. ADMIN. CODE § 334.42(i), as documented during an investigation conducted on January 30, 2015 and a record review conducted on July 29, 2015. Specifically, on January 30, 2015, liquid observed by a TCEQ Investigator in the spill buckets and manways was not properly removed and disposed of within 96 hours of discovery.

3. Failed to ensure that a Class B operator trained and certified all Class C operators, in violation of 30 TEX. ADMIN. CODE § 334.603(a)(2), as documented during an investigation conducted on January 30, 2015 and a record review conducted on July 29, 2015. Specifically, a certified Class C operator trained and certified six individuals for Class C operator certification.
4. Failed to ensure that at least one station representative received training in the operation and maintenance of the Stage II vapor recovery system, and each current employee received in-house Stage II vapor recovery training regarding the purpose and correct operating procedure of the vapor recovery system, in violation of 30 TEX. ADMIN. CODE § 115.248(1) and TEX. HEALTH & SAFETY CODE § 382.085(b), as documented during an investigation conducted on January 30, 2015 and a record review conducted on July 29, 2015.

### III. DENIALS

The Respondent generally denies each allegation in Section II ("Allegations").

### IV. ORDERING PROVISIONS

1. It is, therefore, ordered by the TCEQ that the Respondent pay an administrative penalty as set forth in Section I, Paragraph 6 above. The payment of this administrative penalty and the Respondent's compliance with all the terms and conditions set forth in this Agreed Order resolve only the allegations in Section II. The Commission shall not be constrained in any manner from requiring corrective action or penalties for violations which are not raised here. Administrative penalty payments shall be made payable to "TCEQ" and shall be sent with the notation "Re: CIRCLE K STORES INC., Docket No. 2015-1407-PST-E" to:  
  
Financial Administration Division, Revenue Operations Section  
Attention: Cashier's Office, MC 214  
Texas Commission on Environmental Quality  
P.O. Box 13088  
Austin, Texas 78711-3088
2. It is further ordered that the Respondent shall undertake the following technical requirements:
  - a. Within 30 days after the effective date of this Agreed Order:
    - i. Install and implement a release detection method for all USTs at the Station and begin conducting daily inventory volume measurements for the USTs, in accordance with 30 TEX. ADMIN. CODE § 334.50;
    - ii. Clean the spill buckets of liquid and debris and properly dispose of it at an authorized facility, in accordance with 30 TEX. ADMIN. CODE § 334.42;

- iii. Develop and implement procedures to ensure that all individuals successfully complete the proper training requirement for each class of operator, in accordance with 30 TEX. ADMIN. CODE § 334.603; and
  - iv. Ensure that at least one Station representative receives training in the operation and maintenance of the Stage II vapor recovery system, and each current employee receives in-house Stage II vapor recovery training, in accordance with 30 TEX. ADMIN. CODE § 115.248.
- b. In lieu of Ordering Provision No. 2.a.iv., within 30 days after the effective date of this Agreed Order, decommission the Stage II vapor recovery system at the Station, in accordance with 30 TEX. ADMIN. CODE § 115.241.
- c. Within 45 days after the effective date of this Agreed Order, submit written certification as described below, and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision Nos. 2.a.i. through 2.a.iii. and 2.a.iv. or 2.b. The certification shall be notarized by a State of Texas Notary Public and include the following certification language:

"I certify under penalty of law that I have personally examined and am familiar with the information submitted and all attached documents, and that based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the submitted information is true, accurate and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fines and imprisonment for knowing violations."

The certification shall be submitted to:

Order Compliance Team  
Enforcement Division, MC 149A  
Texas Commission on Environmental Quality  
P.O. Box 13087  
Austin, Texas 78711-3087

with a copy to:

Waste Section Manager  
Dallas/Fort Worth Regional Office  
Texas Commission on Environmental Quality  
2309 Gravel Drive  
Fort Worth, Texas 76118-6951

3. The provisions of this Agreed Order shall apply to and be binding upon the Respondent. The Respondent is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Station operations referenced in this Agreed Order.

4. If the Respondent fails to comply with any of the Ordering Provisions in this Agreed Order within the prescribed schedules, and that failure is caused solely by an act of God, war, strike, riot, or other catastrophe, the Respondent's failure to comply is not a violation of this Agreed Order. The Respondent shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. The Respondent shall notify the Executive Director within seven days after the Respondent becomes aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.
5. The Executive Director may grant an extension of any deadline in this Agreed Order or in any plan, report, or other document submitted pursuant to this Agreed Order, upon a written and substantiated showing of good cause. All requests for extensions by the Respondent shall be made in writing to the Executive Director. Extensions are not effective until the Respondent receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.
6. This Agreed Order, issued by the Commission, shall not be admissible against the Respondent in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Agreed Order; or (2) pursue violations of a statute within the Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.
7. This Agreed Order may be executed in separate and multiple counterparts, which together shall constitute a single instrument. Any page of this Agreed Order may be copied, scanned, digitized, converted to electronic portable document format ("pdf"), or otherwise reproduced and may be transmitted by digital or electronic transmission, including but not limited to facsimile transmission and electronic mail. Any signature affixed to this Agreed Order shall constitute an original signature for all purposes and may be used, filed, substituted, or issued for any purpose for which an original signature could be used. The term "signature" shall include manual signatures and true and accurate reproductions of manual signatures created, executed, endorsed, adopted, or authorized by the person or persons to whom the signatures are attributable. Signatures may be copied or reproduced digitally, electronically, by photocopying, engraving, imprinting, lithographing, electronic mail, facsimile transmission, stamping, or any other means or process which the Executive Director deems acceptable. In this paragraph exclusively, the terms "electronic transmission", "owner", "person", "writing", and "written" shall have the meanings assigned to them under TEX. BUS. ORG. CODE § 1.002.
8. The effective date of this Order is the date it is signed by the Commission. A copy of this fully executed Order shall be provided to each of the parties.

## SIGNATURE PAGE

### TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission

Date

Ram Morris, Jr.  
For the Executive Director

4/8/16  
Date

I, the undersigned, have read and understand the attached Agreed Order. I am authorized to agree to the attached Agreed Order on behalf of the entity indicated below my signature, and I do agree to the terms and conditions specified therein. I further acknowledge that the TCEQ, in accepting payment for the penalty amount, is materially relying on such representation.

I also understand that failure to comply with the Ordering Provisions, if any, in this order and/or failure to timely pay the penalty amount, may result in:

- A negative impact on compliance history;
- Greater scrutiny of any permit applications submitted;
- Referral of this case to the Attorney General's Office for contempt, injunctive relief, additional penalties, and/or attorney fees, or to a collection agency;
- Increased penalties in any future enforcement actions;
- Automatic referral to the Attorney General's Office of any future enforcement actions; and
- TCEQ seeking other relief as authorized by law.

In addition, any falsification of any compliance documents may result in criminal prosecution.

Geoffrey C. Haxel  
Signature

11/20/2015  
Date

Geoffrey C. Haxel

Senior VP of Operations

Name (Printed or typed)  
Authorized Representative of  
CIRCLE K STORES INC.

Title

**Instructions:** Send the original, signed Agreed Order with penalty payment to the Financial Administration Division, Revenue Operations Section at the address in Section IV, Paragraph 1 of this Agreed Order.